

## 2<sup>nd</sup> 15-DAY RENOTICE TEXT OF PROPOSED REGULATIONS

In the following, bold dotted underline indicates additional text and bold ~~dotted strikethrough~~ indicates additional deleted text to the originally proposed text in the original single underline and strikethrough format, and the 1<sup>st</sup> 15-Day Renotice text which appears in bold double underline and bold ~~double strikethrough~~ format.

### Title 15. Crime Prevention and Corrections

#### Division 3. Adult Institutions, Programs and Parole

Under Chapter 1, Subchapter 6, reserved Article 15 is adopted.

#### ARTICLE 15. DISCHARGE (~~RESERVED~~)

Reserved Section 3720 title and new text are adopted to read:

##### 3720. Discharge Reviews. (~~Reserved~~)

(a) Inmate/parolees who are released to non-revocable parole as provided in section 3505, are excluded from any of the provisions of this Article 15, Discharge.

(a b) The following terms are defined for the purpose of this Article 15, Discharge:

(1) Continuous Parole, pursuant to California Code of Regulations (CCR), Title 15, subsection 2535(b)(4), is parolees who have not had parole revoked or absconded from parole supervision since their initial release. If a revocation, revocation with credit for time served, ~~or~~ suspension with reinstatement of parole with time loss **has occurred in the period**, the parolee has not been on continuous parole.

(2) Discharge Review means a review of a parolee's criminal history, and his or her adjustment and/or performance while under parole supervision for the purpose of rendering a decision as to whether or not a parolee should be retained on parole supervision for another year or be discharged from parole supervision altogether.

(~~b~~ c) Discharge review periods to be followed by the Division of Adult Parole Operations are as follows:

(1) The review for those parolees who are subject to a three-year parole period as provided in CCR, Title 15, Division 2, subsection 2515(b), shall be performed during the 12<sup>th</sup> month of continuous parole, except for those who were committed for violent felonies as listed in section 667.5(c) of the Penal Code, in which case the review shall be performed during the 24<sup>th</sup> month of continuous parole.

(2) The review for those parolees who are subject to a five-year parole period, as provided for in CCR, Title 15, Division 2, subsection 2515(d), shall be performed during the 36<sup>th</sup> month of continuous parole.

(3) The review for those parolees who are subject to lifetime parole period shall be during the 84<sup>th</sup> month of continuous parole for first degree murder parolees and during the 60<sup>th</sup> month of continuous parole for second degree murder parolees.

**(4) A parolee shall be immediately referred to the Board of Parole Hearings for discharge consideration if any of the following criteria exist:**

(A) Confirmation exists that the parolee was deported to his or her country of origin after being released to parole.

(B) Confirmation exists that the parolee is under the supervision of another prison system, state or federal, and that supervision period, which includes the period of incarceration and any supervised release, exceeds the jurisdiction period maintained by the Department.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections ~~3000.03~~, 3000.1, 3001, 3052, ~~5054~~, and 5076.2, ~~and 5054~~, Penal Code.

**Reserved Section 3721 title and new text are adopted to read:**

**3721. Discharge Review Reports. (~~Reserved~~)**

(a) The assigned parole agent shall review each case within the specified review period and recommend ~~either~~ retaining the cases on parole or recommend discharge, ~~thus and~~ allowing the case to discharge by operation of law.

(b) The parole agent must complete a discharge review report, whether the recommendation is to retain or discharge. The following factors shall be considered in conducting discharge reviews and preparing a discharge review report for a parolee in the community:

(1) Parole Adjustment. Whether or not the parolee was complying with his or her conditions of parole or involved in any criminal behavior or activities, the parole adjustment shall include, but is not limited to, the following:

(A) Residence, whether or not the parolee's residential pattern is stable.

(B) Employment, whether or not the parolee demonstrated a steady pattern of employment, educational or vocational training, and if he or she has the ability to reasonably provide for his or her own financial needs while in the community.

(C) Compliant with Special Conditions of Parole. Address any known violations of any general, mandatory or special conditions of parole, or the parolee's ability to comply with all conditions.

(D) Psychological Factors. Note the mental health status of the parolee and his or her compliance with any mental health treatment.

(E) Gang Validation. Note any past or present involvement in any prison, criminal, or street gang as a validated member, associate, or affiliate, and if the parolee is an active or inactive validated member, associate, or affiliate.

(2) Restitution. Note any fine and/or restitution balance at the time of review, and any effort to satisfy the fine and/or restitution balance.

(3) Criminal History.

(A) Sex, Arson, Gang or Drug Registration Requirements. Note any registration requirement as per sections 290, 457.1 and 186.30 of the Penal Code; and/or section 11590 of the Health and Safety Code and if the applicable registrations(s) are current.

(B) Serious or Violent Commitment Offense. Indicate whether or not the parolee's commitment offense, regardless of whether it is the controlling or non-controlling case, is considered serious or violent as defined in Penal Code sections 1192.7(c), 1192.8, or 667.5(c).

(C) Use of a Weapon during Commitment Offense. Indicate whether or not it is known if the parolee's commitment offense involved the use of a weapon, regardless of whether it is the controlling or non-controlling commitment offense.

(D) Possession of Firearm during Commitment Offense. Indicate whether or not the parolee's commitment offense involved the possession of a firearm, regardless of whether it is the controlling or non-controlling commitment offense.

(E) History of Serious or Violent Felony Convictions. Indicate whether or not the parolee's criminal history includes a conviction for any serious or violent felony as defined in Penal Code sections 1192.7(c), 1192.8, or 667.5(c).

(F) History of Use of a Weapon Conviction. Indicate whether or not the parolee's criminal history includes a conviction for any offense involving the use of a weapon.

(G) History of Possession of a Firearm Conviction. Indicate whether or not the parolee's criminal history includes a conviction ~~of~~ **for** any offense involving the possession of a weapon within the 10 year period before the commitment offense.

NOTE: Authority cited: Sections 5058, Penal Code. Reference: Sections 3000.1, 3001, 3052, 5054, and 5076.2, Penal Code.

**Reserved Section 3721.1 title and new text are adopted to read:**

**3721.1. Documenting the Discharge Review. ~~(Reserved)~~**

~~(a)~~ Discharge Review Report. When preparing a discharge review report on a parolee, it shall be reported on a CDCR Form 1502 (Rev. 10/06), Activity Report, which is incorporated by reference.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

**Reserved Section 3722 title is amended and adopted, and new text are adopted to read:**

**3722. Annual Discharge Reviews ~~Reports~~. ~~(Reserved)~~**

(a) General. At the discharge review, the Division of Adult Parole Operations shall consider the parolee's adjustment on parole and any other information relevant to determining whether the parolee should be discharged or retained under parole supervision.

(b) In the event of a retention on parole, the parolee shall be entitled to a review by the parole authority each year thereafter until the statutory maximum period of parole expires. In the event the Board of Parole Hearings (BPH) acts to retain parole, the parole agent shall complete subsequent annual reviews each year thereafter and forward the discharge review report to the BPH for discharge or retain consideration. Annual discharge reviews shall be performed as provided in section 3720 and as noted in this section.

(c) Criteria. Factors tending to indicate there is good cause to retain a parolee on parole include:

(1) Commitment Offense. The parolee was committed to prison for several offenses, for an offense involving weapons or great bodily harm, for an offense which was part of large scale criminal activity or for an offense which caused considerable concern in the local community.

(2) Parole Adjustment. While on parole, the parolee has been involved in criminal activity even if that activity did not result in revocation of parole, has been using drugs, has been involved in gang activities, is currently undergoing criminal prosecution or is being investigated for possible prosecution.

(3) Placement Returns. The parolee has been returned to custody for substance abuse or psychiatric treatment.

(4) Supervision Needed. The parolee is in special need of continued supervision for the safety of the parolee or of the public.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3000.1, 3001, 3052, 3054, and 5076.2, Penal Code.

**Reserved Section 3723 title and new text are adopted to read:**

**3723. Parolee Rights. ~~(Reserved)~~**

The parolee shall receive a copy of the discharge review decision, including the reasons for a decision not to discharge the parolee, if applicable. The parolee may appeal any mistake of fact contained in the discharge review report pursuant to the appeals process provided in sections 3084 – 3084.7. If a mistake of fact is substantiated and that mistake results in a change in the recommendation to retain on parole, the corrected discharge review report with the recommendation to discharge shall be corrected and submitted to the Board of Parole Hearings with a request to reconsider the decision to retain.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.